STATE OF NEW YORK

3430--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 26, 2021

Introduced by M. of A. McDONALD, FAHY, GRIFFIN, WOERNER, OTIS, STERN, LUPARDO, GALEF, TAYLOR, DICKENS, B. MILLER, BUTTENSCHON, GUNTHER, McDONOUGH, TAGUE, ENGLEBRIGHT, ABINANTI -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law and the public authorities law, in relation to the purchase of personal protective equipment and medical supplies produced or manufactured in the state of New York

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 1 and 3 of section 148 of the state finance law, as added by section 2 of part BB of chapter 55 of the laws of 2021, are amended to read as follows:

1. Notwithstanding any other provisions of law, all contracts over fifty thousand dollars in value made and awarded by any department or agency of the state for the purchase of personal protective equipment or medical supplies shall require that the personal protective equipment or medical supply items be produced or made in whole or substantial part in the [~~United States~~] **state of New York; and shall utilize, to the extent practicable, preferred sources in accordance with section one hundred sixty-two of the state finance law, for at least thirty percent of such personal protective equipment or medical supply items**.

3. The provisions of this section shall not apply if the head of the department or agency purchasing the personal protective equipment or medical supplies, in his or her sole discretion, determines that such provisions would not be in the public interest; that obtaining such personal protective equipment or medical supplies **produced or made** in the **state of New York or in the** United States would increase the cost of the contract by an unreasonable amount; that such personal protective

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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equipment or medical supplies cannot be produced or made in the **state of New York or in the** United States in sufficient and reasonably available quantities and of satisfactory quality or design to meet the department's or agency's requirements; or that purchasing personal protective equipment or medical supplies manufactured outside of the **state of New York or outside of the** United States is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare. **In the event a New York state source or a preferred source is not able to supply personal protective equipment or medical supply items, any other personal protective equipment or medical supply items produced or made in whole or substantial part in the United States may be utilized to satisfy the requirements of this subdivision.**

§ 2. Subdivisions 1 and 3 of section 2878-c of the public authorities law, as added by section 3 of part BB of chapter 55 of the laws of 2021, are amended to read as follows:

1. Notwithstanding any other provisions of law, all contracts over fifty thousand dollars in value made and awarded by any state authority for the purchase of personal protective equipment or medical supplies shall require that the personal protective equipment or medical supply items be produced or made in whole or substantial part in the [~~United States~~] **state of New York; and shall utilize, to the extent practicable, preferred sources in accordance with section one hundred sixty-two of the state finance law, for at least thirty percent of such personal protective equipment or medical supply items**.

3. The provisions of this section shall not apply if the head of the state authority purchasing the personal protective equipment or medical supplies, in his or her sole discretion, determines that such provisions would not be in the public interest; that obtaining such personal protective equipment or medical supplies in the **state of New York or outside of the** United States would increase the cost of the contract by an unreasonable amount; that such personal protective equipment or medical supplies cannot be produced or made in the **state of New York or in the** United States in sufficient and reasonably available quantities and of satisfactory quality or design to meet the state authority's requirements; or that purchasing personal protective equipment or medical supplies manufactured outside of the **state of New York or outside of the** United States is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare. **In the event a New York state source or a preferred source is not able to supply personal protective equipment or medical supply items, any other personal protective equipment or medical supply items produced or made in whole or substantial part in the United States may be utilized to satisfy the requirements of this subdivision.**

§ 3. This act shall take effect on the sixtieth day after it shall have become a law and shall apply to any state contracting opportunities advertised on or after such date and shall exclude contracts for which an invitation for bid, request for proposal, or similar solicitation has been issued prior to this proposal becoming effective.